

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RONNIE HICKS,

Petitioner,

vs.

RON VAN BOENING,

Respondent.

NO. CV-08-128-RHW

ORDER DENYING STAY AND DISMISSING
PETITION

BEFORE THE COURT is Petitioner's Motion to Stay (Ct. Rec. 9).
Petitioner, a prisoner at the McNeil Island Corrections Center, is
proceeding *pro se*; Respondent has not been served.

Petitioner failed to note his motion for calendar (and he did not
present a memorandum in support of his motion) as required by Local
Rule for the Eastern District of Washington 7.1(h). Because this is
the first time that Petitioner has failed to do so, the Court has
noted Petitioner's motion for hearing on the date signed below.

**PETITIONER IS CAUTIONED THAT ANY FURTHER MOTIONS SUBMITTED TO THE
COURT WITHOUT NOTING THEM FOR HEARING IN COMPLIANCE WITH THE LOCAL
RULES WILL NOT BE ADDRESSED BY THE COURT.**

Petitioner's single page Motion requests the Court stay his
Petition until he has exhausted his state court remedies. He

1 indicates he has presented a Personal Restraint Petition to the state
2 courts, asserting "numerous Equal Protection and Due Process
3 violations" which allegedly justify his immediate release. He
4 indicates he will file a motion to dismiss if the remedies he seeks in
5 state court are granted.

6 A federal court may implement a "stay" in a habeas proceeding
7 where "petitioner had good cause for his failure to exhaust, his
8 unexhausted claims are potentially meritorious, and there is no
9 indication that the petitioner engaged in intentionally dilatory
10 litigation tactics. . . ." *Rhines v. Weber*, 544 U.S. 269, 278, 125
11 S.Ct. 1528, 161 L.Ed.2d 440 (2005). Petitioner, however, has
12 presented no facts to justify a stay in this action, neither has he
13 demonstrated a future habeas petition would be time barred under 28
14 U.S.C. § 2244(d).

15 Therefore, **IT IS ORDERED** Petitioner's Motion to Stay (Ct. Rec. 9)
16 is **DENIED**. **IT IS FURTHER ORDERED** the Petition is **DISMISSED without**
17 **prejudice** for failure to exhaust state court remedies.

18 **IT IS SO ORDERED.** The District Court Executive is directed to
19 enter this Order, enter judgment of dismissal, forward a copy to
20 Petitioner, and close the file.

21 **DATED** this 7TH day of August, 2008.

22 *S/ Robert H. Whaley*
23 ROBERT H. WHALEY
24 CHIEF UNITED STATES DISTRICT JUDGE

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